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Attorneys for Defendants
7 DIGISEC MEDIA AS and
SIGURD VEDAL
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10 UNITED STATES DISTRICT COURT
11 CENTRAL DISTRICT OF CALIFORNIA
12 WESTERN DIVISION

13 AVID LIFE MEDIA, INC., an Ontario
14 corporation, and AVID DATING LIFE,
INC., an Ontario corporation dba
15 ASHLEY MADISON,

16 Plaintiffs,
17

18 v.

19 DIGISEC MEDIA AS dba
20 www.victoriamilan.com, a Norway
company; SIGURD VEDAL, an
21 individual; and DOES 1 THROUGH 10,
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Defendants.
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Case No.: 12-08602 JAK (FMOx)

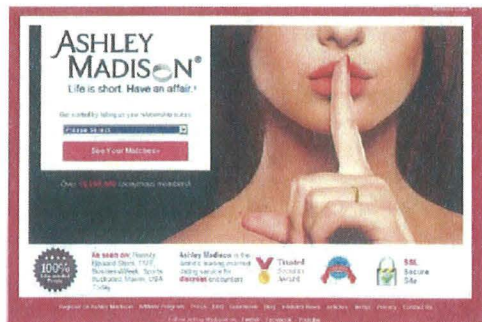
NOTICE OF RELATED CASE

Pursuant to Local Rule 83-1.3.1, Defendants Digisec Media AS and Sigurd Vedal (collectively “Defendants”) hereby give notice that the instant action appears to be related to Avid Life Media Inc. et al. v. Marital Affair Ltd., et al., Civil Case No. 2:12-cv-07604-MMM-MAN (the “Related Case”), which was filed before the instant action and is currently pending before Judge Morrow.¹

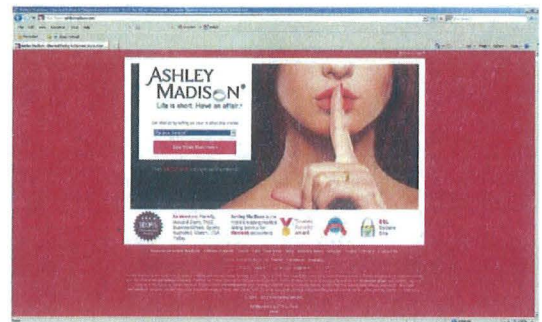
Local Rule 83-1.3.1 states that that cases are related if, among other things, they appear “(b) To call for determination of the same or substantially related or similar questions of law and fact . . . or (d) To involve the same patent, trademark or copyright, and one of the factors identified above in a, b or c is present.”

It appears to Defendants that both subparagraphs (b) and (d) of the local rule are satisfied in this case because both the instant action and the Related Case involve the same alleged trade dress, namely “the depiction of a woman with her finger near her sealed lips” that appears on the website <ashleymadison.com>. (L.R. 83-1.3.1(d).) (*Compare, e.g.*, Docket Entry (“DE”) 1, ¶¶ 17, 18; Exhibit C in the instant action with DE 1, ¶ 17, 18; Exhibit D in the Related Case.) True and correct copies of the alleged trade dress attached to the complaints in the two actions are reproduced below.

Alleged Trade Dress in the Instant Action:



Alleged Trade Dress in the Related Case



¹ The instant action is also related to Digisec Ltd. v. Avid Life Media, Inc., et al., Civil Case No. 2:13-cv-01849-JAK-MAN for the reasons indicated in the civil cover sheet filed with the complaint in that action.

1 Insofar as the plaintiffs have asserted claims based on the same alleged trade
 2 dress in both the instant action and the Related Case, both cases call for determination
 3 of the same or substantially related or similar questions of law and fact, including
 4 without limitation whether the plaintiffs own and/or have standing to assert any rights
 5 in the alleged trade dress. (L.R. 83-1.3.1(b).) *See Art Attacks Ink, LLC v. MGA*
 6 *Entertainment Inc.*, 581 F.3d 1138, 1145 (9th Cir. 2009).

7 The cases also appear to call for determination of substantially related or similar
 8 questions of law and fact because the plaintiffs have alleged in both cases that an
 9 image of a woman putting her finger to her lips in connection with dating services
 10 catering to people who are married or attached is likely to cause confusion as to
 11 source. (*Compare* DE 1, Exhibit A in the instant action *with* DE 1, Exhibit A in the
 12 Related Case). Although the allegedly infringing images in the two cases are not
 13 identical, the bases for the plaintiffs' claims are substantially the same in each case,
 14 and will call for substantially similar legal and factual analysis if the Court needs to
 15 reach the question of likelihood of confusion. *See Aurora World, Inc. v. Ty Inc.*, 719
 16 F.Supp.2d 1115, 1155 (C.D. Cal. 2009) (listing the elements of the *Sleekcraft*
 17 likelihood of confusion analysis in the trade dress context).

18 In accordance with the foregoing, counsel for Defendants believes that the
 19 instant action and the Related Case are related for purposes of Local Rule 83-1.3.1,
 20 and that both the instant action and by extension Digisec Ltd. v. Avid Life Media,
 21 Inc., et al., Civil Case No. 2:13-cv-01849, qualify for related case transfer to Judge
 22 Morrow.

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 24 Dated: April 23, 2013

By: /s/Christopher T. Varas
 CHRISTOPHER T. Varas
 KILPATRICK TOWNSEND &
 STOCKTON LLP
 Attorneys for Defendants
 Digisec Media AS and Sigurd Vedal